

## **MINUTES OF ZONING BOARD OF APPEALS MEETING HELD 12/10/13**

Present: Allen Firstenberg, Chairman, Frank Barresi, Vice Chairman, Kristina Costa, Bridget Gannon, Hilda Duque, Village Attorney Viglotti and Mary Ann Loncto, Secretary

Absent: Rachel DiGrazia

Others Present:	Lou Gallo	John Gallo
	Don McCormick	Trustee Komornik
	Brent Eads	Mario Sciarra

Meeting was called to order at 7:30 p.m. Secretary took roll call.

### **DAIRY QUEEN, 1585 ROUTE 9**

First on the agenda was the continuation of a public hearing from October 8, 2013 and November 12, 2013 on the request of Jagelard, Inc., 2 Kelly Circle, Poughkeepsie seeking an area variance from Section 151-12(l)(3)(d) of the Zoning Ordinance to be able to have a changeable sign as part of a new sign – allowed is 17 sq. ft. of changeable sign space and proposed is 21.08 sq. ft. of changeable sign space and a use variance from Section 151-12(l)(3)(d)(3) of the Zoning Ordinance to be able to have a scrolling message where special effects are prohibited at Dairy Queen, 1585 Route 9 identified on the tax map as 6158-19-530214. Mr. Lou Gallo and Mr. John Gallo, owners of the property and business were present. Mr. Firstenberg stated that the Board had received a number of documentations from the applicant including the following: “Finding Common Ground – EMC and Digital Sign Issues” produced by International Sign Association, Statistical Analysis of the Relationship between on-premise Digital Signage and Traffic Safety” by Texas A&M University, “State Changeable Message Chart”, “Ignite Goes Zoning Friendly” by Ignite Graphics Software, “Daktronics Study Summaries” and “10 Facts in Support of Building Safe, Vibrant, Growing Communities” by Watchfire/Time-O-Matic, Inc.

Mr. Firstenberg asked the applicants what the hold time would be for the signs changing and Mr. Lou Gallo stated whatever the Board wanted but it would be at least 6 seconds. Mr. Gallo again stated that this is an electronic static message board – it does not scroll or flash. Ms. Costa asked when the sign would be installed and Mr. Gallo stated probably in the late Spring. Mr. Firstenberg asked if anyone in the audience or the Board had anything further to add – hearing nothing Mr. Barresi made a motion to close the public hearing, seconded by Ms. Costa. On roll call vote – Ms. Costa – Aye, Mr. Barresi – Aye, Ms. Gannon – Aye, Ms. Duque – Aye and Mr. Firstenberg – Aye.

### **NICOLE STABEL FOR NORTH RIVER HOPS AND BREWING**

No one was present.

### **PARTY CITY, 1701 ROUTE 9**

Next on the agenda was the public hearing on the request of Brent Eads, Zoning Specialist for Site Enhancement Services representing Party City seeking an area variance from Section 151-12(l)(3)(a) of the Zoning Ordinance to be able to have two signs which are larger than allowed by Code. Allowed is 120 sq. ft. of signage and proposed is 297.4 sq. ft. of signage requiring a variance of 177.4 sq. ft. and seeking an area variance from Section 151-

12(l) (3) (c) of the Zoning Ordinance to be able to have a building sign longer then the allowed 30 ft. in length - proposed is a building sign that is 31.35 ft. in length requiring a variance of 1.5 ft. for the proposed Party City to be located at 1701 Route 9 which is in a General Business Zone and identified on the tax map as: 6158-10-497508.

Mr. Brtent Eads from Site Enhancement Services and Mr. Mario Sciarra from Party City were present. Applicants presented to the Board their notice of publication which was published in the November 30, 2013 edition of the Poughkeepsie Journal and proof of mailing to property owners. Dutchess County Dept. of Planning also responded to the zoning referral with a letter dated December 4, 2013 (Copy of letter is on file in the Planning/Zoning Offices) stating that for the reasons listed in their letter, they recommend that the Board not grant the requested area variance for total sign square footage and that they find the 1.5 ft requested variance for sign length to be a matter of local concern. It was stated that there are no outstanding debts or violations on this property and there is a consent form on file from the owner of the property. It was stated that this is the property that is currently occupied by NAMCO. They are allowed 120 sq. ft. of signage which will include both sides of the pylon sign and their road sign. They are requesting an additional 1.5 ft of wall sign (allowed is 30 ft. and they are requesting a sign that is 31.5 ft.) They have no issue with Southbound traffic – they can see the signage and gain access to the property but Northbound traffic only has three courses of action – they are able to turn left after they pass Scenic Drive, by pass the site and make a u turn at Liss Road, or turn at Liss Road go through Liss Road make a left at N. Mesier Avenue and gain access that way and being Liss Road is a residential area – they would rather not go that way. The existing sign is approximately 260 sq. ft. and they are proposing signs that are 216 sq. ft. Party City will be the anchor tenant at this multi site location and road exposure is very important. The total frontage of the entire building is 300 ft and Party City will be occupying 60 ft. of frontage. The applicants presented the Board and discussed and reviewed a presentation which showed all alternatives and what they would look like on the building. It was also stated that Party City is signing a 10 year least. It was stated that as other stores take up tenancy – they will be requesting signage on the ends or wings of the building. The County Planning Board as one of their recommendations suggested that Party City remove the “tag line” from their sign – the text that reads “the discount party super store” Applicant stated that it is really not a tag line but a part of their name – it is something that identifies Party City as a place where you can buy party items at a discounted price. Mr. Firstenberg then asked about the road sign – the intent of Party City is to have the top panel exclusively for Party City – it only says Party City because there is not enough room on the road sign to have the tag line and still have the Party City letters be visible. Mr. Firstenberg stated that most of the variance requested for the building sign is for the text which the applicant stated is very important to them. The size of the top half of the road sign is 63 sq. ft. overall.

Mr. Barresi asked the applicant if there has been any discussion with the property owner to reduce the overall size of the road sign and applicant answered the size of the road sign would remain as it is. Mr. Firstenberg read Mr. Murphy’s letter dated November 19, 2013 into the record (a copy of which is on file in the Planning/Zoning offices.) Mr. Barresi stated if they omitted the tag line they could have 45 inch letters and the requested variance is well above conformance to the code. Applicant showed the Board a rendering of a sign that had 42” channel

letters with no tag line. The sign was 20 ft. in length and applicants felt it was too small for the anchor store on the front of the building. As an alternate the applicant proposed a 48" channel letter sign with the tag line for a total height of 72" and a total length of 24.93 inches for an overall sign of approximately 153 sq. ft. and a double faced road sign with a total sq. footage of approximately 63 sq. ft. for an overall total signage of 216 sq. ft. Ms. Gannon asked how many employees applicants are considering hiring – and they answered 25 year round with an increase during seasonal times. There would be 3 or 4 members of management full time with the rest of the employees being part time.

Mr. Barresi made a motion to close the public hearing, seconded by Ms. Gannon. On roll call Ms. Gannon – Aye, Ms. Duque – Aye, Ms. Costa – Aye, Mr. Barresi – Aye and Mr. Firstenberg – Aye.

At this time the closed public hearing on Party City was discussed. Mr. Firstenberg stated that one of the arguments for the larger Party City sign is the fact that there are only two approaches for northbound traffic to see and enter the property. This becomes a safety issue. When you look at undesirable changes to the neighborhood – it is Route 9 with many stores in the area all with building and road signs. Can this be mitigated by any other method besides an area variance – it is important for the safety of the people who will be stopping at this location to see the site at a reasonable distance. Will the granting of the variance have an adverse impact on the neighborhood – again it is Route 9 with many other stores and signs and the applicants have stated they do not want to be a burden on any residences that may be in the area. The question comes down to if this is substantial – they will need a variance of 96 sq. ft. – and yes this is substantial but it is a reasonable request considering the size of the building and the exposure needed to traffic on Route 9. Ms. Costa stated she would like the applicants to be as compliant as possible to the Code. Ms. Gannon suggested that the applicants consider having ¼ panel on the road sign instead of ½ panel and the applicants answered they would like the sign on the pylon to be as large as possible until they get established. It is also a safety concern with a smaller road sign. It was also stated that the 48" channel letters with the tag line is the Corporate standard. Ms. Gannon made a motion to approve the 96 sq. ft. variance which includes the building sign to be 72" x 24.93" with a tag line as proposed and the road sign to be a total of 63 sq. ft. – 31.5 sq. ft. per side. No variance is needed for the total length of the building sign as it conforms to the code. Mr. Barresi seconded the motion. On roll call vote – Ms. Costa – Aye, Mr. Barresi – Aye, Ms. Duque – Aye, Ms. Gannon – Aye and Mr. Firstenberg – Aye.

### **DAIRY QUEEN, 1585 ROUTE 9**

Next the proposal from Dairy Queen was discussed. Ms. Gannon stated she had a picture of the sign at the Dairy Queen in Hyde Park if anyone was interested in looking at it. She stated she feels the Village would be better off with the sign they are proposing rather than the sign that is at the Dairy Queen in Hyde Park. Mr. Firstenberg stated that the use variance portion of this application specifically says that they are looking for scrolling message and the applicant has stated on several occasions and clearly demonstrated that they were not looking for a scrolling message and they would have no special effects. They have demonstrated that they can comply with Section 151-12(I) (3) (d) (3) which states, "special effects, including but not limited to

dissolve, fading, scrolling, starbursts and wiping shall be prohibited..” As long as they do not have any dissolve, fading, scrolling starbursts and wiping they are safe and simply the act of changing from one panel to the other as long as that change does not have any effects of dissolving, fading, scrolling, starbursts and wiping and animation – Mr. Firstenberg’s take on this is that a use variance necessary. Mr. Barresi asked how the Board can control the change rate. At what timetable does it change from a changeable copy sign to a special effect sign. The applicants have agreed to a 30 second hold time. Mr. Firstenberg stated that the Board interprets the Village Code to say this is a digital, changeable sign and does not employ any special effects provided that the hold time is 30 seconds.

Mr. Firstenberg made a motion that the Board finds as fact that special effects include changeable sign copy that is more frequent than 30 seconds. Ms. Costa seconded the motion. Mr. Firstenberg withdraw his motion.

Mr. Firstenberg then made a motion that the Board finds as fact that a changeable copy signs that changes digitally be interpreted as a sign that has a hold time of at least 30 seconds and does not have any animation, and conforms to the limitations of 151-12(I)(3)(d). Ms. Costa seconded the motion. On roll call vote – Ms. Costa – Aye, Mr. Barresi – Aye, Ms. Gannon – Aye, Ms. Duque – Nay and Mr. Firstenberg – Aye.

Mr. Firstenberg made a motion stating that he further finds as fact that there are no special effects being requested for this sign and therefore no variance is required for Section 151-12(I)(3)(d)(3). Ms. Costa seconded the motion. On roll call vote – Ms. Costa – Aye, Mr. Barresi – Aye, Ms. Gannon – Aye, Ms. Duque – Nay and Mr. Firstenberg – Aye. Mr. Firstenberg then stated there is an area variance being requested for this sign allowed is 17 sq. ft. of changeable sign and proposed is 21.08 sq. ft. of changeable sign space – requiring a variance of 4.08 sq. ft. – would an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created – Mr. Barresi stated he felt that it would be an improvement to the neighborhood. Can the benefits sought by the applicant be achieved by methods other than the area variance – the sign is the right size to get the text in at a reasonable and safe fashion. They are also reducing the existing signage. They are also ceasing their use of temporary signs which can be unsightly. Is the area variance substantial – no - it is only 4.08 sq. ft. Whether the proposed variance will have an adverse impact on the physical or environmental conditions on the neighborhood or district – There have been some discussion on the lighting in the neighborhood – but there are Codes that limit the amount of lighting that can be used and the Planning Board will enforce these conditions. Is the variance self-created – no. At this point Mr. Firstenberg made a motion to grant the 4.08 sq. ft. variance. Motion was seconded by Mr. Barresi – on roll call vote – Ms. Costa – Aye, Mr. Barresi – Aye, Ms. Gannon – Aye, Ms. Duque – Aye and Mr. Firstenberg – Aye.

Ms. Gannon made a motion to approve the minutes of the previous meeting, seconded by Ms. Costa. On roll call vote – Ms. Gannon – Aye, Ms. Costa – Aye, Mr. Barresi – Aye, Ms. Duque – Aye and Mr. Firstenberg – Aye.

Ms. Costa made a motion to adjourn the meeting, seconded by Ms. Gannon. Meeting was adjourned at 9:30 p.m.

Respectfully submitted,

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MARY ANN LONCTO, Secretary  
Zoning Board of Appeals

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